

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

STATUTORY REVIEW OF THE SYSTEM
FOR REGULATING RATES AND CLASSES
FOR MARKET DOMINANT PRODUCTS

Docket No. RM2017-3

**RESPONSE OF THE UNITED STATES POSTAL SERVICE IN OPPOSITION TO
MPA—THE ASSOCIATION OF MAGAZINE MEDIA AND ALLIANCE OF NONPROFIT
MAILERS' MOTION FOR ISSUANCE OF INFORMATION REQUESTS**
(January 24, 2017)

On January 17, 2017, the Alliance of Nonprofit Mailers and MPA—The Association of Magazine Media (hereafter ANM and MPA, respectively) filed a Motion for Issuance of Information Requests pursuant to 39 C.F.R. § 3001.21(a).¹ In the motion, ANM and MPA request that the Presiding Officer or Commission order the Postal Service to answer fourteen questions with subparts on the valuation of the Postal Service's future liabilities to retirees, valuation of the Postal Service's real estate, the pay comparability requirement, and the Flats Sequencing System (FSS). The Postal Service hereby opposes the motion on two grounds. First, party-initiated information requests should not be permitted at this stage of the Commission's review. Second, even if the Commission is inclined to allow information requests, ANM and MPA have failed to demonstrate a specific need for the information requested in order to prepare their March 20 comments.

¹ Motion of MPA—The Association of Magazine Media and Alliance of Nonprofit Mailers for Issuance of Information Requests, PRC Docket No. RM2017-3 (Jan. 17, 2017) [hereinafter "ANM-MPA Motion"].

As a general matter, the Postal Service strongly objects to the concept of a party-initiated information request at this stage of the proceeding. As detailed in Order No. 3673, this stage of the proceeding is focused on soliciting commenters' views on three areas: (1) an appropriate framework for the review, including definitions for the objectives; (2) whether the current system is achieving the objectives, taking into account the factors; and (3) if not, what modifications or alternatives should be adopted. Parties are more than capable of providing robust comments on all of these issues using the wealth of information that is publicly available on the websites of the Commission and Postal Service, and from other resources. Therefore, parties should not be allowed to burden the Postal Service with having to engage in discovery, particularly document productions, at this time.

Moreover, even if the Commission is inclined to entertain the possibility, in principle, of party-initiated information requests at this stage, ANM and MPA have failed, for every set of questions, to justify their need for the solicited information in order to prepare their comments. Instead, ANM and MPA rely on rote recitation of select statutory objectives and factors which do nothing to support their onerous request. Having failed to demonstrate a specific need, ANM and MPA should not be permitted to burden the Postal Service with having to respond to the voluminous information requests. Indeed, certain of the information requested is not relevant to this review, and information on the other matters in the request is already publicly available. Each of set of questions is individually addressed below.

The motion claims that the requested information on the Postal Service's pension and retiree health benefits (RHB) liabilities for FY2015 and FY2016 is necessary "to put

the Postal Service's long-term financial stability into proper perspective."² However, the Postal Service already provides detailed information on its pension and RHB liabilities in its financial reports, and ANM and MPA make no showing as to why that information is insufficient for their purpose. Indeed, considering the Postal Service is obligated by statute to pay the pension and RHB amounts calculated by the Office of Personnel Management (OPM),³ the movants' understanding of the Postal Service's financial situation will in no way be materially furthered by a detailed understanding of how OPM has performed its actuarial calculations.⁴ Moreover, information on what the Postal Service's FY2015 and FY2016 liabilities would be if postal-specific assumptions were used by OPM is fundamentally irrelevant, since those assumptions are not currently being used by OPM in calculating the Postal Service's actuarial liabilities.⁵

ANM and MPA have also failed to demonstrate a specific need for the extensive materials sought on the market value of Postal Service properties. Currently, the Postal Service reflects the book value of its properties using historical cost, in accordance with generally accepted accounting principles.⁶ ANM and MPA presumably wish to argue

² *Id.* at 1.

³ 5 U.S.C. §§ 8348, 8423, 8909a.

⁴ The movants claim that the Postal Service should be obligated to request materials responsive to its information request from OPM. ANM-MPA Motion at 1. Of course, nothing stops the movants from doing so.

⁵ OPM has issued a proposed rule that would require that postal-specific demographic assumptions be used when calculating the Postal Service's pension liabilities. See 81 Fed. Reg. 93,851. The proposed rule would not expressly require the use of postal-specific salary growth assumptions (and hence is not as broad as language in past, unenacted postal reform bills on this matter). If OPM ultimately adopts this proposed rule as a final rule, and hence uses at least some postal-specific assumptions for future actuarial pension determinations, the Postal Service will report the results in its financial reports. As for the financial impact of previously proposed legislative language, movants have the ability to refer to at least two public estimates by the Congressional Budget Office.

⁶ See FIN. ACCOUNTING STANDARDS BD., STATEMENT OF CONCEPT 5: RECOGNITION AND MEASUREMENT IN FINANCIAL STATEMENTS IN BUSINESS ENTERPRISES ¶ 67 (2008), *available at* http://www.fasb.org/jsp/FASB/Document_C/DocumentPage?cid=1218220132773.

that the Postal Service's balance sheet should instead be analyzed by the Commission using market value, in lieu of historical cost, as the book value of the Postal Service's properties. However, the movants have failed to explain why they need the expansive data requested in order to make this general point of principle. The long debate among accountants and academics on the virtues of using either historical cost or market value, and the resulting deluge of information on the topic, furnish ANM and MPA with ample materials with which to attempt to advance their argument. Only if the Commission finds merit in these arguments could it then be relevant to expend resources to attempt to determine the precise market value of the Postal Service's real estate. Therefore, ANM and MPA have completely failed to justify their burdensome request for information on the market value of each of the Postal Service's properties at this stage of the proceeding.

The questions posed by AMN and MPA regarding pay comparability concern a matter that is outside of the Commission's jurisdiction altogether, and hence irrelevant to this review.⁷ Pay comparability is adjudicated through the collective bargaining process, which, in cases of impasse, results in binding interest arbitration (and hence is ultimately outside of the Postal Service's control). The Commission cannot seek to alter or influence the outcome of this process as part of its statutory review. While the President's Commission proposed to give the regulator control over pay comparability,⁸ Congress firmly rejected this proposal, and instead made it clear that nothing in the

⁷ At the very least, movants have not demonstrated why they need the detailed information they have requested in order to submit whatever comments they wish to make on these matters.

⁸ PRESIDENT'S COMM'N ON THE U.S. POSTAL SERV., EMBRACING THE FUTURE: MAKING THE TOUGH CHOICES TO PRESERVE UNIVERSAL MAIL SERVICE 55 (2003).

Postal Accountability and Enhancement Act, including the Commission's exercise of its regulatory authority under 39 U.S.C. § 3622, may be interpreted as affecting the collective bargaining process.⁹

Finally, ANM and MPA have not demonstrated a need for further information on FSS in order to prepare their comments. There are ample materials already available discussing FSS for the movants' use on the Commission's website. For example, every year the Postal Service releases Special Cost Studies workpapers on flats and periodicals and provides detailed costing information for the Annual Compliance Report. The Postal Service provided supplemental information on flats and their "pinch points" in response to a Commission Information Request for the 2015 Annual Compliance Review. As part of Docket No. R2010-4, the Postal Service produced an Operations Plan for Flats and a Periodicals Worksheet. In 2011, the Commission and Postal Service released the Periodicals Mail Study, a comprehensive report on flats and periodicals. Additionally, the United State Postal Service Office of the Inspector General (OIG) has conducted at least three audits of FSS reviewing the Postal Service's decisions, all of which are available on the OIG's website. Other information and resources on FSS are available on the Postal Service's website. Given all this information, there is no need, and ANM and MPA have provided no justification, for producing further information at this juncture, particularly commercially sensitive materials like the Decision Analysis Report.

Accordingly, the Postal Service respectfully requests that the Commission deny ANM and MPA's motion.

⁹ Pub. L. No. 109-435, § 505(b), 120 Stat. 3198, 3236 (2006).

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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